

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

JONATHON A. MOSELEY,

Plaintiff,

v.

Case No. 1:20-cv-01248-AJT-JFA

JUDGE MICHAEL GARDNER, et al.,

Defendants.

**JUDGE GARDINER'S MOTION TO DISMISS
UNDER RULES 12(b)(2), 12(b)(4), AND 12(b)(5)**

The Honorable Richard E. Gardiner, Presiding Judge of the Circuit Court of Fairfax County, Virginia¹ (“Judge Gardiner”), by counsel, pursuant to Rules 12(b)(2), 12(b)(4), and 12(b)(5) of the Federal Rules of Civil Procedure, moves to dismiss the Sworn and Verified Complaint Against Conspiracy to Violate Civil Rights and Companion Request to Certify a Class Action filed by Plaintiff Jonathon A. Moseley. On the grounds set forth in the accompanying Memorandum in Support, the Court lacks personal jurisdiction over Judge Gardiner in this action due to insufficient process and insufficient service of process.

ROSEBORO NOTICE

Consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the following notice advises the pro se plaintiff that:

1) He is entitled to file a response opposing the motion, and any such response must be filed within twenty-one (21) days of the date on which this motion was filed; and

¹ Improperly named in the Complaint as “Judge Michael Gardner.” *See* Complaint, ECF No. 1. Moseley has not filed any Amended Complaint properly naming Judge Gardiner.

2) The Court could dismiss this action on the basis of Judge Gardiner's moving papers if he does not file a response; and

3) He must identify all facts stated by Judge Gardiner with which he disagrees and must set forth his version of the facts by offering affidavits (written statements signed before a notary public under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and

4) He also is entitled to file a legal brief in opposition to the one filed by Judge Gardiner.

Respectfully submitted,

JUDGE RICHARD E. GARDINER

By: /s/ Sheri H. Kelly
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CERTIFICATE

I hereby certify that on the 8th day of January, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel of record for the parties.

By: /s/ Sheri H. Kelly
Sheri H. Kelly